

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

The Burlington Northern and Santa Fe Railway Company, Vienna :
Township in Grundy County, Grundy County, and the State of :
Illinois, Department of Transportation :
:
Stipulated Agreement regarding improving public safety at the : T00-0059
crossing of the Company's tracks with a public highway known as :
Johnny Run Road near Kinsman in Vienna Township, Grundy :
County, Illinois, designated as crossing DOT 004 437W, milepost :
73.50-M.

ORDER

By the Commission:

On May 26, 2000, June 9, 2000, June 16, 2000, June 26, 2000 and June 26, 2000, the Staff of the Illinois Commerce Commission, The Burlington Northern and Santa Fe Railway Company, the Vienna Township of Grundy County, Grundy County, and the Illinois Department of Transportation, respectively, executed the Stipulated Agreement according to the provisions of Section 18c-7401 of the Illinois Commercial Transportation Law. The Stipulated Agreement, which is appended hereto, provides for safety improvements at the crossings of The Burlington Northern and Santa Fe Railway Company 's tracks with a public highway known as the Johnny Run Road located near Kinsman in Vienna Township, Grundy County, Illinois. The Stipulated Agreement contains estimates of cost to accomplish the improvements and a division of cost among the parties.

The Commission, having given due consideration to the Stipulated Agreement, finds that:

- (1) the Commission has jurisdiction over the parties and the subject matter of this proceeding;
- (2) the physical characteristics of the subject highway - railroad grade crossings, rail and highway volumes and speeds are indicated on Exhibit A, of the Stipulated Agreement, appended hereto;
- (3) the Parties agree that in the interest of public safety the improvements as set forth in Section 2 of the Stipulated Agreement, appended hereto, should be performed;
- (4) the cost for the proposed improvements should be divided among the

parties and the Grade Crossing Protection Fund of the Motor Fuel Tax Law, in accordance with the Law;

- (5) it is fair and reasonable that the Secretary of the Illinois Department of Transportation through the Grade Crossing Protection Fund of the Motor Fuel Tax Law, The Burlington Northern and Santa Fe Railway Company and Vienna Township of Grundy County be directed to bear their respective portions of the actual cost of the proposed improvements as set forth in Section 5 of the Stipulated Agreement, appended hereto;
- (6) the County has agreed to be the lead agency for the roadway reconstruction; The County will be responsible for the roadway work; provide construction supervision, and prepare all billing on the project;
- (7) since the highway reconstruction will be performed by the County and/or its contractor, roadway contractor and railroad liability insurance will be required as specified in the Illinois Department of Transportation's "Standards and Specifications for Road and Bridge Construction";
- (8) the Company and the County shall have bi-monthly coordination meetings, unless agreed to by each of them that any meeting is not necessary, until the completion of the projects.

IT IS THEREFORE ORDERED that the terms of the Stipulated Agreement executed by the Staff of the Illinois Commerce Commission, The Burlington Northern and Santa Fe Railway Company, the Vienna Township of Grundy County, Grundy County, and the Illinois Department of Transportation on May 26, 2000, June 9, 2000, June 16, 2000, June 26, 2000 and June 26, 2000, respectively, be, and they are hereby accepted and required to be met by the aforesaid parties.

IT IS FURTHER ORDERED that The Burlington Northern and Santa Fe Railway Company be, and it is hereby, required and directed to proceed immediately in performing its work as set forth in Section 2 of the Stipulated Agreement, appended hereto, and shall complete its work within one (1) year from the date of this Order.

IT IS FURTHER ORDERED that Vienna Township of Grundy County and the County of Grundy be, and they are hereby, required and directed to proceed immediately in performing its work as set forth in Section 2 of the Stipulated Agreement, appended hereto, and shall complete its work within one (1) year from the date of this Order.

IT IS FURTHER ORDERED that The Burlington Northern and Santa Fe Railway

Company and Grundy County shall have bi-monthly coordination meetings, unless agreed to by each of them that any meeting is not necessary, until the completion of the projects.

IT IS FURTHER ORDERED that since the highway reconstruction will be performed by the COUNTY and/or its contractor, roadway contractor and railroad liability insurance will be required as specified in the Illinois Department of Transportation's "Standards and Specifications for Road and Bridge Construction".

IT IS FURTHER ORDERED that the cost of making the improvements herein required shall be divided among the parties and the Grade Crossing Protection Fund of the Motor Fuel Tax Law, as set forth in Section 5 of the Stipulated Agreement, appended hereto.

IT IS FURTHER ORDERED that the Illinois Department of Transportation shall, within thirty (30) days of its receipt of a detailed cost estimate and general layout plan, furnish to the Commission a statement of its approval or disapproval thereof, this for the information of the Commission when considering the application herein required to be filed in accordance with Form 3 of 92 Ill. Adm. Code 1535.

IT IS FURTHER ORDERED that The Burlington Northern and Santa Fe Railway Company shall file Form 3 of 92 Ill. Adm. Code 1535 of this Commission, one for each location, showing details of the automatic warning devices herein required and shall receive approval thereof by X-Resolution before commencing the work of installation.

IT IS FURTHER ORDERED that all bills for expenditures authorized to be reimbursed from the Grade Crossing Protection Fund shall be submitted to Mr. Henry Cronister, Bureau of Local Roads and Streets, Main Office, Illinois Department of Transportation at 2300 South Dirksen Parkway, Springfield, Illinois, 62764. The Illinois Department of Transportation shall submit a copy of each bill to the Director of Processing and Information, Transportation Division of the Commission. The final bill for expenditures shall be clearly marked "Final Bill". All bills shall be submitted to the Department no later than twenty four (24) months from the date of this Order. Authorization for reimbursement from the Grade Crossing Protection Fund shall expire twelve (12) months after the completion date specified in this Order. The Department shall, at the end of the 24th month from the Commission's Order date, de-obligate all residual funds accountable for installation costs for this project.

IT IS FURTHER ORDERED that The Burlington Northern and Santa Fe Railway Company shall file a written report within ninety (90) days from the date of this Order, with the Director of Processing, of the Commission's Transportation Division, stating the progress it has made toward completion of its work herein required. The report shall

include the name, title, mailing address, phone number and facsimile number of the Company's employee responsible for management of this project.

IT IS FURTHER ORDERED that Vienna Township of Grundy County shall file a written report within ninety (90) days from the date of Commission Order subsequent to this agreement, with the Director of Processing, of the Commission's Transportation Division, stating the progress it has made toward completion of its work herein required.

The report shall include the name, title, mailing address, phone number and facsimile number of the Township's employee responsible for management of this project.

IT IS FURTHER ORDERED that The Burlington Northern and Santa Fe Railway Company shall submit to the Director of Processing, Transportation Division of the Commission within five (5) days of the completion of the work herein required, a National Inventory Update Report Form as a notice of said completion.

IT IS FURTHER ORDERED that Vienna Township of Grundy County shall submit to the Director of Processing, Transportation Division of the Commission within five (5) days of the completion of the work herein required, a written report stating the date all work required of it has been completed.

IT IS FURTHER ORDERED that The Burlington Northern and Santa Fe Railway Company and Vienna Township of Grundy County shall each file a written report with the Director of Processing within fifteen (15) days of the conclusion of each calendar quarter, stating the status of expenditures of the total project and percentage of completion of the project; if the project is behind schedule the report must include a brief explanation of the reason(s) for the delay.

IT IS FURTHER ORDERED that, subject to Section 18c-2201 and 18c-2206 of the Law, this is a final decision subject to the Administrative Review Law.

By Order of the Commission this 9th day of August, 2000.



Chairman

EXAMINER
SECTION CHIEF <i>MES</i>
Supervisor of Orders <i>[Signature]</i>